

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES JACKSON and MITZI JACKSON,)	
)	
Plaintiff(s),)	
)	
vs.)	Case No. 4:08CV00027 JCH
)	
WIERSEMA CHARTER SERVICE, INC.,)	
)	
Defendant(s).)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs' Request for a Court Order Allowing Plaintiffs' [sic] to Obtain Defendant's Driver's Medical Records from the CGH (Central General Hospital) Medical Center and the CGH (Central General Hospital) Family Practice Group with Good Cause Shown ("Motion"), filed June 23, 2009. (Doc. No. 61). Plaintiffs request that this Court order the disclosure of Donald Koehler's medical records from the CGH Medical Center and CGH Family Practice Group.

Plaintiff James Jackson was involved in a motor vehicle accident with a commercial charter driven by Donald Koehler on March 24, 2006. (Motion, ¶ 1). Plaintiffs' counsel deposed Dr. Angel Blazquez, who performed medical examinations of Koehler on February 7, 2000 and February 6, 2002, to obtain his commercial driver's license (CDL). (Motion, ¶ 9). Plaintiffs' counsel requested that Dr. Blazquez bring to the deposition all records he relied upon during the CDL examination of Koehler. (Motion, ¶ 10). Dr. Benthall testified that he reviewed and relied upon the CGH Medical Center and CGH Family Practice Group records during the CDL examinations of Koehler. (Motion, ¶¶ 11, 15-16). Dr. Blazquez, however, was unable to bring the CGH Medical Center and CGH

Family Practice Group records because he did not receive an authorization from the patient to disclose those records. (Motion, ¶ 14).

Dr. Blazquez obtained Koehler's medical records as part of a CDL medical examination. Records pertaining to a CDL medical examination are not within the scope of the physician-patient privilege. State ex rel. Hayter v. Griffin, 785 S.W.2d 590, 596 (Mo. Ct. App. 1990). Because Dr. Blazquez relied on the CGH Medical Center's and CGH Family Practice Group's medical records for his February 7, 2000 and February 6, 2002 CDL medical examinations, the physician-patient privilege does not apply to those records.

Further, Plaintiffs have shown how the documents requested would impact the Dr. Blazquez's ability to observe and remember at his deposition. Dr. Blazquez testified that he would not be able to testify regarding Koehler's medical history, which he considered during his CDL examination, without the assistance of his medical records. (Motion, ¶¶ 15-16) (Dr. Blazquez testified that he relied upon Koehler's laboratory work from CGH Medical Center and CGH Family Practice Group during the CDL medical examinations). Thus, Dr. Benthall needs the CGH Medical Center and CGH Family Practice Group records to testify regarding what he considered during Koehler's CDL medical examination.

Plaintiffs have provided evidence that they need the records considered by Dr. Blazquez during his February 7, 2000 and February 6, 2002 CDL medical examinations of Koehler. Pursuant to 45 C.F.R. § 164.512(e)(1)(i),¹ this Court orders CGH Medical Center and CGH Family Practice Group to produce Koehler's complete medical history up to and including February 6, 2002.

¹45 C.F.R. § 164.512(e)(1)(i) provides that "[a] covered entity may disclose protected health information in the course of any judicial or administrative proceeding: [i]n response to an order of a court or administrative tribunal provided that the covered entity discloses only the protected health information expressly authorized by such order."

Plaintiffs have not provided any evidence that any other records after February 6, 2002 were relied upon for Koehler's CDL medical examinations.

CONCLUSION

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Request for a Court Order Allowing Plaintiffs' [sic] to Obtain Defendant's Driver's Medical Records from the CGH Medical Center and CGH Family Practice Group with Good Cause Shown (Doc. No. 61) is **GRANTED**, in part.

IT IS HEREBY FURTHER ORDERED that CGH Medical Center and CGH Family Practice Group shall produce Koehler's complete medical history up to and including February 6, 2002 to Plaintiffs.

Dated this 24th day of June, 2009.

/s/ Jean C. Hamilton

UNITED STATES DISTRICT JUDGE